

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WASHINGTON

**Application for Order Approving Employment**

MASINGALE, MONTE & ROSANA

Case Name \_\_\_\_\_

Case Number 15-03276-FPC7

Comes now the undersigned (Trustee/Debtor in Possession/Chairman of the Creditors' Committee) and applies to the court for an order approving the employment of Thomas Buford, Bush Kornfeld, LLP

as special counsel for the ( ☒ Trustee - ☐ Debtor in Possession - ☐ Creditors' Committee )  
(Position)  
in the above entitled estate.

For purposes of this application and verification and the disclosures contained herein, the term APPOINTEE shall include the named appointee, and if the named appointee is a law partnership or corporation or an accounting partnership or corporation, or is an attorney or accountant employed as a partner, member, or regular associate of a partnership or corporation, the named appointee and each member, partner or regular associate of such partnership or corporation.

Applicant and Appointee in making and verifying this application understand that appointee is a fiduciary to the estate or creditors' committee as appropriate, and is obligated to fully and candidly disclose all material facts relating to the employment and is obligated to timely disclose subsequently discovered material facts.

Your applicant makes the following representations under penalty of perjury and subject to 18 U.S.C. § 152:

1. That the specific facts showing the necessity for the employment are: The BAP has scheduled oral argument for 9/30/22, the Trustee is not available on this date to present argument and requires special counsel to represent the Estate in this matter.
2. That the reason for the selection of the above named appointee is: Appointee is an experienced bankruptcy attorney.
3. That the professional services to be rendered are: The scope of representation is limited to preparation for and presentment of oral argument before the BAP on 9/30/22 in regards to the pending appeal. EW-22-1016-FBL.
4. That appointee is qualified to provide the services to be rendered based on the following: Appointee has significant court experience, including appellate court experience in presenting bankruptcy matters.
5. That any proposed arrangement as to compensation, including hourly rates or flat fees if applicable, is as follows, but that approval of that arrangement and any payment or allowance of compensation for services rendered or reimbursement of expenses will be in accordance with 11 U.S.C. §§ 329 and 330 and FRBP 2016: \$375.00 per hour for Thomas Buford, Bush Kornfeld, LLP
6. That appointee is a relative of the bankruptcy judge assigned the case. ☐ YES ☒ NO
7. (For Trustee or Debtor in Possession) That appointee does hold or represent an interest adverse to the estate, that appointee is not a disinterested person, or that appointee has served as examiner in the case.  
☐ YES ☒ NO If YES, explain: \_\_\_\_\_
8. (For Creditors' Committee) That appointee is not and will not while employed by the committee represent any other entity having an adverse interest in connection with the case.  
☐ YES ☐ NO If YES, explain: NA
9. That to best of your applicants knowledge, all of the appointees connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, any person employed in the office of the United States Trustee or the bankruptcy judge assigned the case are as follows:
  - A. That appointee is a creditor as defined by 11 U.S.C. § 101(10). ☐ YES ☒ NO If YES, complete the following:  
Date on any waiver, set-off or assignment: \_\_\_\_\_  

Type of debt incurred:	_____	Payment made:	\$ _____
Date incurred:	_____	Date payment made:	\$ _____
Amount incurred:	\$ _____	Amount of payment:	\$ _____
		Remaining Balance:	\$ _____
  - B. That appointee is indebted to the debtor or to the estate? ☐ YES ☒ NO If YES, complete the following:

Type of debt incurred: \_\_\_\_\_  
Date incurred: \_\_\_\_\_  
Amount incurred: \$ \_\_\_\_\_

Payment made: \$ \_\_\_\_\_  
Date payment made: \_\_\_\_\_  
Amount of payment: \$ \_\_\_\_\_  
Remaining Balance: \$ \_\_\_\_\_

- C. That appointee has or presently represents an entity that could be classified as a creditor as defined by 11 U.S.C. § 101(10)? ☐ YES ☒ NO If YES, provide the following and any other relevant information as to each such entity:  
a) name  
b) dates, capacity and scope of representation  
c) actual or possible conflicts according to any applicable code or rules of professional conduct, including discussion as to any waivers received or given
- D. That appointee is or has been an equity security holder as defined in 11 U.S.C. § 101(17)? ☐ YES ☒ NO If YES, provide the following and any other relevant information as to such equity security interests:  
a) description of each interest  
b) amount of each interest  
c) dates each interest held  
d) dates and manner of disposal of each interest
- E. That appointee has or presently represents an equity security holder as defined by 11 U.S.C. § 101(17)? ☐ YES ☒ NO If YES, provide the following and any other relevant information as to each such equity security holder:  
a) name of holder  
b) dates, capacity and scope of representation  
c) actual or possible conflicts according to any applicable code or rules of professional conduct, including discussion as to any waivers received or given.
- F. That appointee is or has been an insider as defined by 11 U.S.C. § 101(31)? ☐ YES ☒ NO If YES, fully explain and provide any and all relevant information pertaining thereto. \_\_\_\_\_
- G. That appointee has or presently represents an insider as defined by 11 U.S.C. § 101(31)? ☐ YES ☒ NO If YES, provide the following and any other relevant information pertaining thereto as to each such insider:  
a) name  
b) dates, capacity and scope of representation  
c) actual or possible conflicts according to any applicable code or rules of professional conduct, including discussion as to any waivers received or given.
- H. That appointee has or presently represents the debtor? ☐ YES ☒ NO If YES, provide the following and any other relevant information pertaining thereto:  
a) name  
b) dates, capacity and scope of representation  
c) actual or possible conflicts according to any applicable code or rules of professional conduct, including any discussion as to any waivers received or given.
- I. That appointee has had or has participated in any transaction with the debtor, whether or not such transaction involved representation of the debtor? Transactions include, but are not limited to any actions under 11 U.S.C. § 329(a) and FRBP 2017(a), involving payments, retainers, set-offs, security agreements, liens, gifts or indentures as defined by 11 U.S.C. § 101(28). ☐ YES ☒ NO If YES, provide the following and any other relevant information concerning each such transaction:  
a) names of all parties involved  
b) dates and description  
c) amounts involved if applicable  
d) reason for transaction

J. That appointee has received or has been promised compensation from debtor or some other entity for services rendered or to be rendered in the case? ☐ YES ☒ NO If YES, provide the following and any other relevant information concerning each such payment or promise.

- a) name of payor or promisor
- b) status of payor or promisor
- c) relationship between debtor and payor or promisor
- d) date of payment or promise
- e) amount of payment or promise
- f) basis for payment or promise
- g) location or disposition of any monies received

K. That appointee has caused to be conducted an internal conflicts check in regard to representation of other clients as required by any code or rules of professional conduct? ☒ YES ☐ NO If YES, state results, if NO, state why it was not done. No conflict. Please see attached engagement letter.

Dated: 8/12/22

John D. Munding, Chapter 7 Trustee

Typed Name of Applicant

/s/ John D. Munding  
Signature of Applicant

I, the undersigned appointee, do hereby state under penalty of perjury that I have read the above representations and verify that they are true and accurate and that they disclose all material facts required to the best of my knowledge and belief.

Dated:

Thomas Buford, Bush Kornfeld, LLP

Typed Name of Appointee

  
Signature of Appointee

Phone #: 206-292-2110

Address: 601 Union Street, Ste 5000

Seattle, WA 98101-2373

**BUSH KORNFIELD LLP**  
Law Offices

601 Union Street • Suite 5000 • Seattle, Washington 98101-2373  
Telephone (206) 292-2110 • Facsimile (206) 292-2104 • Website: [www.bskd.com](http://www.bskd.com)

Thomas Buford  
Direct Dial 206-292-2110  
E-mail [tbuford@bskd.com](mailto:tbuford@bskd.com)

August 11, 2022

**SENT BY EMAIL**

John Munding  
Chapter 7 Trustee  
[John@mundinglaw.com](mailto:John@mundinglaw.com)


Re: Terms of Engagement

Dear John:

Thank you for selecting Bush Kornfeld LLP to represent you, in your role as Chapter 7 trustee in E.D. Wa. Case No. 15-03276 (*In re Masingale*), as special counsel. Bush Kornfeld will represent you by arguing against the Debtors' appeal currently set for hearing on September 30, 2022, in Reno, Nevada, before the Bankruptcy Appellate Panel for the Ninth Circuit.

Bush Kornfeld agrees to use its best efforts in representing you in the matter described above. In exchange for our services, the Chapter 7 estate in the *Masingale* case agrees to pay us the below hourly rates for time expended by attorneys, paralegals and clerks on this matter, and for any costs we advance on the estate's behalf. The rates for attorneys for this firm currently range from \$365 per hour to \$625 per hour, and the rates for clerks and for paralegals range from \$75 per hour to \$125 per hour. Whenever reasonably possible, and consistent with effective representation, we will use clerks and associates to reduce costs. My hourly rate for Chapter 7 trustee representations is \$375 and I will be the primary attorney working on your behalf. My travel rate is one-half of my hourly rate.

*Thank You!*

 Bush Kornfeld's representation will begin upon your signature of this engagement letter. Bush Kornfeld understands that the estate will be required to employ Bush Kornfeld under Section 327(e) of the Bankruptcy Code and that I will submit a declaration in support of such application. Bush Kornfeld has checked its conflicts and does not represent any interest adverse to the estate. Having said that, Bush Kornfeld will disclose that one of its associates, Lesley D. Bohleber (formerly known as Lesley Leuke) previously represented Flagstar Bank in the *Masingale* case as part of her duties for her former employer. Ms. Bohleber does not and has not represented Flagstar Bank in this matter since 2017. I have not discussed the substance of this

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John Munding  
August 11, 2022  
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representation with Ms. Bohleber and, in an abundance of caution, Ms. Bohleber will be excluded from all information regarding Bush Kornfeld's representation of you.

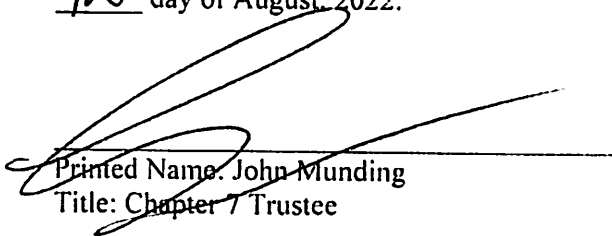
Again, thank you for entrusting us with you legal work. We will do our very best to provide you with the quality of service upon which we have built our professional reputation.

Sincerely,



Thomas Buford

ACCEPTED AND AGREED TO this  
12 day of August, 2022:



Printed Name: John Munding  
Title: Chapter 7 Trustee